

NATIONAL ASSOCIATION OF SECURITIES DEALERS, INC.

In the Matter of the Arbitration Between :	:
Frank Montfort and Janis Montfort :	:
Claimants :	:
vs. :	Award
Fidelity Brokerage Services, Inc. :	Case #90-03634
Respondents :	:

Robert E. Warner

Public Arbitrator

CASE SUMMARY

Frank and Janis Montfort, in a claim filed with the National Association of Securities Dealers, Inc. on December 6, 1990, alleged that Respondent Fidelity Brokerage Services, Inc., failed to follow Claimant's oral and written instructions to effect an offset transaction until ninety-one days after receipt and acknowledgement of said instruction.

Respondent, Fidelity Brokerage Services, Inc. by their counsel Jeffrey R. Larsen, Esq., maintained that they did not receive any written instructions from the Claimants until late 1990, at which time the offset was completed. They affirm that the total margin interest charged and not refunded to Claimants for the account in question during 1990 was FOUR HUNDRED FIFTY NINE DOLLARS AND EIGHTY FOUR CENTS (\$459.84), not the figure calculated by the Claimant. Claimants submitted a reply to the Answer.

RELIEF REQUESTED

Claimants request damages in the amount of TWO THOUSAND FOUR HUNDRED TWENTY FOUR DOLLARS AND FIFTY FOUR CENTS (\$2,424.54) or, alternatively, the restoration of their original short position.

Respondent requests dismissal of the claim and states that the maximum amount in dispute cannot exceed FOUR HUNDRED FIFTY NINE DOLLARS AND EIGHTY FOUR CENTS (\$459.84).

AWARD

Pursuant to Section 13 of the National Association of Securities Dealers, Inc. Code of Arbitration Procedure, a single Public arbitrator, Robert E. Warner, was selected to review and determine the matter in controversy between the parties set forth in submissions to Arbitration signed by the Claimants on December 17, 1990 and by the Respondent on February 14, 1991;

And, that the Arbitrator, having considered the proof of the Parties, has decided and determined in full and final resolution of the issues submitted for determination as follow:

1. That the Respondent, Fidelity Brokerage Services, Inc., is liable and shall pay to the Claimants, Frank and Janis Montfort, the sum of TWO THOUSAND FOUR HUNDRED TWENTY FOUR DOLLARS AND FIFTY FOUR CENTS (\$2,424.54).
2. The \$50.00 filing fee previously deposited with the National Association of Securities Dealers, Inc. by the Claimants is assessed against the Respondent, Fidelity Brokerage Services, Inc. and payable by the Respondent to the Claimants, Frank and Janis Montfort.

AFFIRMATION

I, Robert E. Warner, do hereby affirm upon my oath as arbitrator that I am the individual described herein and who executed this instrument, which is my oath and award.

Robert E. Warner
Signature of Arbitrator

DATED: May 29, 1991